IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1427 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/08/2004 in WP NO: 13308 OF 2004 on the file of the High Court.)

Between:

Yeddu Kannam Naidu, S/o. Sundara Narayana Naidu,
Karlamma Grampanchayat, Kothur Mandal, Srikakulam District.
..... APPELLANT

AND

1 Government of Andhra Pradesh, Panchayatraj and Rural Development
Department (PTS-II), Secretariat, Hyderabad, rep by its Principal Secretary
2 The District Collector (Panchayat Wing) Srikakulam District, Srikakulam.
3 The District Panchayat Officer, Srikakulam.
.....RESPONDENTS

Counsel for the Appellant:MR.TADDI.NAGESWARA RAO

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following Oral Order: (per Sri Devinder Gupta,CJ)

Challenge in this appeal is to the order passed by the learned single judge disposing of the writ petition of the appellant at the admission stage.

Appellant is the Sarpanch of Gram Panchayat, Karlemma, Kotturu Mandal, Srikakulam District and was put under suspension by order dated 23.9.2003 of the District Collector(Panchayat Wing), Srikakulam after Show Cause Notice dated 18.6.2003 was served upon him and after explanation submitted by him was considered. The Collector passed the said order of suspension under Section 249(6) of the Andhra Pradesh Panachayat Raj Act, 1994 suspending the appellant for three months. The order was challenged in appeal before the Government. Initially, the Government stayed the operation of the order of suspension. But, on 20.7.2004, the Government vacated the stay order and dismissed the appeal.

One of the grievances of the appellant is that after the show cause notice was served upon him, he had submitted his reply on 8.8.2003. However, the District Collector received report from the Executive Engineer (P.R.), Palakonda on 22.8.2003 which was also taken note of by the Collector while passing the order of suspension. His submission is that the order could not have been passed without making the said report available to him or without giving an opportunity of being heard after the report was received.

We see no force in the submission made by the learned counsel for the appellant that the said orders of suspension are passed when the enquiry is still pending. Merely because the enquiry into the serious

allegations with regard to possession of Panchayt funds is pending, the same cannot be challenged on such hyper-technical points, that too, when for the most charges for which the show cause notice was issued, the Collector after considering the explanation of the appellant, opined thus:

> "While the enquiry into the above charges is pending, as the Sarpanch had not discharged his duties according to Act, as the Sarpanch acted as per his own will and wish and thus misappropriated the Panchayat Funds and as he resorted to corruption, it is felt that it will be a threat to the Panchayat and public interest if he is allowed to function as Sarpanch, these orders are issued duly suspending Sri Eddu Kannam Naidu, Sarpanch, Gram Panchayat, Karlemma, Kothur Mandal from the post of Sarpanch under sub-section (6) of Section 249 of Andhra Panchayat Raj Act, 1994. These suspension orders shall be in force for a period of 3 months."

We see no reason to interfere with the order of the learned single judge. The writ appeal is accordingly dismissed.

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DEVINDER GUPTA, CJ

Date: 16th September, 2004

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C.V.RAMULU,J

Pnb

To

1 The Principal Secretary, Government of Andhra Pradesh, Panchayatraj and Rural Development, Department (PTS-II), Secretariat, Hyderabad.

2 The District Collector (Panchayat Wing) Srikakulam District,

Srikakulam.

3 The District Panchayat Officer, Srikakulam.

4 Two C.Cs to the Government Pleader for Panchayat Raj and Rural Development, High Court of A.P., Hyderabad (OUT)

5 Two C.D copies